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BWS PROPERTIES, LLC,)
)
 Plaintiff,)
)
 vs.) 1:24-cv-00029
) Judge Christopher Steger
) Non-Jury
AIRGAS USA, LLC,)
)
 Defendant.)

DEPOSITION OF TRACY HARVEY

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1 Q And at what point were you provided a copy of
2 these topics?

3 A Yesterday.

4 Q I'm going to ask, if you wouldn't mind, could you
5 read through topic number 1 that is listed here? And let
6 me know when you've had a chance to do so.

7 A Yes. I have.

8 Q Are you prepared today to testify on Airgas's
9 behalf regarding topic number 1?

10 A Yes, ma'am.

11 Q And if you could read through numbers 5 and 6.
12 And then please let me know when you've had a chance to
13 do so.

14 A Yes, I have.

15 Q And are you prepared today to testify on Airgas's
16 behalf as to topics 5 and 6?

17 A I won't be able to do all Airgas employees and
18 representatives, because I don't -- that was a long time
19 ago and I will not remember all of those, but I will do
20 my best on that.

21 Q And just to clarify, with the clarification that
22 you just gave, will you be prepared today to testify to
23 topics 5 and 6, again with that clarification noted?

24 A Yes. To the best of my ability.

25 Q I'm going to scroll down. And this may take a

1 moment, I admit. But if you could read through numbers
2 13 through 18, and let me know when you've had a chance
3 to do so.

4 A I have. But number 15, I have absolutely no idea
5 about that whatsoever.

6 MR. ROBISON: Counsel, was that a topic that
7 was addressed by Mr. Van Slyke earlier?

8 MS. WOLINSKY: It was, but I think it was one
9 that -- and maybe I marked it incorrectly, but I thought
10 that you'd noted that he might have some information on
11 that and it would overlap. I know some of it was going
12 to overlap regardless. But I will just -- I'll mark that
13 accordingly.

14 BY MS. WOLINSKY:

15 Q Other than number 15 that we just discussed, so
16 this will be numbers 13, 14, 16, 17, and 18, that
17 grouping, are you prepared today to testify to those
18 topics on Airgas's behalf?

19 A Yes, ma'am.

20 Q And finally, if you'll read through number 22.
21 And let me know when you've had a chance to do so.

22 A Yes, ma'am. I'm through.

23 Q And are you prepared today to testify to that
24 topic on Airgas's behalf?

25 A Yes, ma'am.

1 Q I'm not asking about any communications you've had
2 with counsel, but what did you do to prepare for today's
3 deposition?

4 A Read through this, that I was provided yesterday,
5 and spoke to counsel and spoke to Peter Van Slyke.

6 Q Can you tell me about -- again, not asking about
7 your conversations with counsel, but can you tell me
8 about your conversation with Mr. Van Slyke with regard to
9 preparations for today's deposition?

10 MR. ROBISON: And I might interject here a
11 little bit and maybe ask -- it might make sense to
12 clarify what that conversation was, because that would've
13 been a conversation between me and the deponent and
14 Mr. Van Slyke together, and it's preparation that would
15 be covered by attorney-client privilege.

16 Q Then I will just move to, what -- did you review
17 any documents to prepare for today?

18 A This document and some pictures.

19 Q Can you just describe for me the pictures that you
20 looked at?

21 A I mean, there was many pictures. I don't know
22 exactly what you want described. But I mean, there was,
23 there was, you know, a lot of pictures of the property
24 and damages to the property, you know.

25 Q Did you look for any additional documents that you

1 time there like that. That's all I can think of that
2 would've been there every day, besides, you know, Bradley
3 Jackson was there. We did have a secretary at one time
4 that was there, that would've been back in that time
5 period. Casey Brown was her name. But that would've
6 been the people that were there, you know, every day, all
7 day, you know.

8 Q And if we were to want to know each and every
9 employee that was employed at Airgas, at the property,
10 from 2005 up until it left the property, what records or
11 documents should we look for or request from Airgas that
12 would be able to exhibit that information?

13 A I have no idea. That would never have anything to
14 do with me, I would think it would be our HR in Atlanta
15 that would take care of that.

16 Q Just out of curiosity, where in Atlanta is HR
17 located?

18 A It's actually in Kennesaw. We call it Atlanta but
19 it's actually in Kennesaw. Airgas's offices in Kennesaw,
20 Georgia. I don't know the address off the top of my
21 head.

22 Q I love Kennesaw even with Atlanta as well. Might
23 as well. They're almost one and the same.

24 A Dalton south is Atlanta.

25 Q Okay. So I'm going to show you what we're going

1 Q But just didn't have an office there at that time?

2 A Correct.

3 Q Where did you usually have to -- did you just
4 visit it briefly, or where did you usually hang out while
5 you were working there?

6 A It just depended. If I was getting something for
7 a customer or if I needed to do something on a laptop
8 real quick, you know, I would plug into, you know, the
9 system, or whatever. So, I mean, different things.

10 Q For just building 1 right now -- we'll go building
11 by building just to make it a bit easier and hopefully be
12 a bit helpful since I know you have a wealth of memory
13 and information dating back.

14 For building 1, describe what you recall about the
15 condition or the appearance of building 1 as of November
16 1, 2005, or in that 2005 time frame.

17 A I mean it was an industrial welding supply. It
18 really -- to me, and being in this for 40 years, welding
19 supplies basically kind of all look together. They're
20 very industrial, you know. They're not a polished retail
21 environment, you know, by no means. They're very
22 industrial.

23 In 2005, I really don't know that it had changed
24 much from when I started there, honestly.

25 Q Do you recall just how it looked then when you

1 first started there, in building 1 again, in '85?

2 A So, I mean -- I don't know if you need to know
3 this history or not. Building 1 is two separate
4 buildings that were put together. The left side of
5 building 1 was built in 1955, and I think the second part
6 of the building was built in the late '60s.

7 So, I mean, it, I don't know, it was fine. It was
8 just an industrial situation. It was kind of exactly
9 what I expected it to be, you know, as an industrial
10 welding supply. I mean, it was, it was -- I don't know,
11 I don't know how to describe it. It was just an
12 industrial building, industrial sales building.

13 Q And I guess maybe let me -- I'll dig into some of
14 the specifics about the building, and hopefully that'll
15 help a little bit. And we'll stick with 2005 for the
16 moment, and we'll eventually move to some other time
17 periods. But for building 1, were all the restrooms
18 working in 2005?

19 A You're pushing me for a lot of information there.
20 That's a long ways back. I don't believe that the back
21 restroom in the main building, in number 1 -- there's
22 four restrooms. There's two up front and two in the
23 back. The two in the back, I don't believe the back one
24 was working at that point. I don't believe.

25 Q And when you say "back," just to make sure I'm

1 understanding, because I've been to the property but I'm
2 not -- I don't have as much familiarity, unfortunately.

3 A Sure.

4 Q When you say the back, are you talking about the
5 warehouse?

6 A Yeah. This is the one that's back by the back
7 docks.

8 Q Okay. And was that eventually fixed, or was that
9 something that just was left unaddressed up until let's
10 say, you know, 2023?

11 MR. ROBISON: Object to form. You can
12 answer.

13 A Okay. It was never fixed. It's never worked,
14 that I know of.

15 Q Were those restrooms, in 2005, clean?

16 A I don't have any idea. That was 20, you know, 20
17 years ago. I do not remember what the bathrooms were on
18 that in 2005.

19 Q Did the garage style doors, it may also be
20 referred to as bay doors, in warehouse 1, in the 2005
21 time period were those working?

22 A Sure. Yes.

23 Q Were they dented or damaged at that time?

24 A I mean, I don't know exactly in 2005. The doors
25 had been there, I'm assuming, from the beginning. You

1 know, they're doors. They're opened and closed all the
2 time. There's wear and tear on them. They would be
3 dented. I mean, even back in the Brooks days, we had put
4 new sections in the door sometimes when they could get
5 damaged or, you know, become unusable. I mean, that's
6 just something you have to do to garage doors as they go
7 along if they're used a lot.

8 Q And then I believe on warehouse 1 as well --
9 excuse me, building 1, there are also some what I'll call
10 people size doors, just regular doors. In the 2005 time
11 period, were those working, in terms of you could go in
12 and out of them, close them?

13 A I think there's -- well, in the warehouse part I
14 think there's three walk-through doors. One of those,
15 that I know of, has never worked.

16 Q In looking at the image on [Exhibit 2](#), where
17 exactly is that door? I know you won't be able to see
18 the door exactly, but on which side is that door located?

19 A So, on the left side of the building in the
20 picture, you see the little carport -- or awning,
21 whatever? It's under that.

22 Q Thank you. In the back offices or in the offices
23 in building 1, at least in the 2022 to 2023 time period
24 they were VCT tile. Was that the same in 2005?

25 A I don't think so. I think that was changed

1 sometime. I don't -- once again, I don't have anything
2 to do with that, so I don't know the time period of that,
3 but I think after the hailstorm that we had that that was
4 changed. I'll call it linoleum, but whatever. I think
5 that was changed then. I'm not positive on the time
6 period.

7 Q And you just mentioned a hailstorm. When did that
8 hailstorm occur?

9 A I do not know the exact date of that hailstorm. I
10 know after it happened I was there, but I don't know the
11 date.

12 Q But you do recall about the hailstorm -- and I'll
13 represent I think it may have taken place in 2012. But
14 what do you recall about that hailstorm?

15 A I mean, it was bad. I'd never seen anything like
16 that when it happened. I mean, it knocked all the -- I
17 don't know when this picture was made of the property
18 now, but, you know, there is no skylights there. The
19 building had a lot of skylights in it, for actual light
20 in it beforehand, and the hailstorm knocked every one of
21 those out. And any vehicle that was in the parking lot
22 at that time was totaled, you know. So it was, it was a
23 bad hailstorm.

24 Q Because it knocked out the skylights, did parts of
25 building 1 have water damage or flood?

1 A Oh. Absolutely. Yes.

2 Q Can you describe that a little bit more for me,
3 where it was, what that looked like?

4 A I mean, it was through the whole building.
5 Because the skylights were on every bit of the roof up
6 there, you know. Not -- the whole roof wasn't a
7 skylight, but I mean, it had skylights. And so every
8 part of the building inside was damaged, you know, the
9 offices, the showroom, the warehouse part. Everything.

10 Q And who was responsible -- and who, I mean, BWS or
11 Airgas, or if there was a third party, responsible for
12 making and paying for those repairs in the 2012 time
13 frame?

14 MR. ROBISON: Object to form. You can answer
15 if you can.

16 A I don't know exactly who, because I don't -- once
17 again, I don't -- I was in sales. I don't have anything
18 to do with that part of it. So, I don't know whether BWS
19 was responsible for that or Airgas was responsible for
20 it. I was, I was told that Airgas was, but I don't know
21 that to be a fact.

22 Q Who told you that?

23 A I'm assuming David Millians. Once again, we're a
24 long time ago. But it was the store manager at that
25 time; you know, that Airgas was paying for all of that.

1 Q And do you know what outside company or individual
2 made those repairs?

3 A I do not know who did it. I don't know the name
4 of who did it. Like I say, I wasn't in there enough,
5 once or twice a week, you know. So I don't, I don't know
6 the companies that did it. I saw them but I don't know
7 them.

8 Q Are there documents that you are aware of that
9 Airgas possesses that evidence who made those repairs,
10 whether construction company or individual?

11 A I would assume there's bills from that, but I
12 would not have any idea of them.

13 MR. ROBISON: And I don't mean to interject,
14 counsel, but if you need to have him refer to the written
15 discovery responses that Airgas has produced to know some
16 of those items that have been identified, that might help
17 the conversation, but I don't want to get in the way of
18 the questioning.

19 MS. WOLINSKY: I will take a look at that
20 shortly.

21 Q Again sticking with building number 1, what do you
22 recall about the condition of building 1 in the 2013 time
23 frame?

24 A That's after the hailstorm?

25 Q Yes. We'll say after the repairs had been made to

1 customers have machines that need to be repaired, we'd
2 bring them in, follow up on them, you know, with the
3 estimates and things like that. So, probably weekly.

4 Q From the 2005 time frame up to 2022, was it always
5 the repair shop during that entire time period, or was it
6 used as something else?

7 A No. It was built as a repair shop when it was
8 built. That's all it's been.

9 Q How long had Steve Benton been the individual in
10 the repair shop?

11 A I believe Steve has only done that since he's been
12 there. He's actually the oldest employee we have. He's
13 been there longer than I have.

14 Q And just to confirm I understand, there wasn't
15 anyone else that occupied that repair shop from 2005 to
16 2022?

17 A So at one point -- and I don't know the exact
18 dates, at one point we had -- let's see. In 2005 it
19 became Airgas. So no, it wouldn't have been. I'm
20 thinking back into the BOC days. But no, 2005 forward it
21 was just Steve Benton.

22 Q In the 2005 time period -- and as you noted, I'm
23 sticking with that time period because that was when
24 Airgas was, technically Airgas, at the property. In the
25 2005 time frame, how would you describe the condition of

1 the building 2?

2 A I mean, it's a repair shop. It's not the cleanest
3 thing in the world. It's a welder repair shop. I'd
4 describe it as a typical garage, a typical repair
5 shop/garage type place.

6 Q Was the ceiling intact?

7 A As far as I remember. I don't remember
8 specifically looking up at the ceiling. But as far as I
9 know, yes.

10 Q And did the garage style or bay type doors, I
11 believe there may be a couple on that building, did those
12 work in 2005?

13 A Sure.

14 Q Is there a restroom in building 2?

15 A There is.

16 Q And was it working in 2005?

17 A Sure. Yes.

18 Q And other than, as you'd mentioned, it's a repair
19 shop, it's not always the cleanest, was there other
20 damage to building 2 -- any damage to building 2 that you
21 can recall in 2005?

22 A So, I'll admit something here that's pretty funny.
23 So, the outside edge of that building, where you drive up
24 the ramp on the outside, there is three or four dents in
25 that building, that I did that with a truck back in

1 probably 1990 or '95. I actually damaged that building
2 there.

3 Q You left your mark.

4 A I did. I did. And those dents are still in it.
5 That was back in the Brooks days.

6 Q Fantastic.

7 Just to confirm, in the 2005 time period, other
8 than the mark that you left on the building, do you
9 recall if there was any other damage to building 2?

10 A Not that I know of.

11 Q We'll skip building 3 just because thus far my
12 understanding is that building 3 was not -- there were no
13 people employed inside of building 3; is that correct?

14 A That's correct.

15 Q So we'll just move on to building 4, the gas
16 house. I lost my place. I'm sorry.

17 Sticking with building 2 -- I was enjoying the
18 "left your mark on the building" a little too much. I
19 skipped ahead. Apologies.

20 Staying with building 2, so the repair shop, in
21 the 2013 time period, do you recall if there was any
22 damage to that building?

23 A Not that I recall, no.

24 Q And as of beginning of 2022 through, we'll say
25 June 2022, do you recall -- or was there any damage to

1 building 2?

2 A So, a year before the last time?

3 Q Yes. Not during the last lease period but just
4 right before.

5 A Oh. Not that I'm aware of.

6 Q And now moving to building 4, the gas house. Tell
7 me, what was -- and again, it may be a little
8 self-explanatory by the name, but can you tell me what
9 building 4 was used for?

10 A So in the beginning it was used for the production
11 of gases in the cylinders. The cylinders are actually
12 pumped there. When BWS bought us, they quit pumping
13 there because BOC pumps on Access Road, cylinders. And
14 so from that point forward, it was just used to store
15 cylinders that we sold, that we shipped out and sold.

16 Q And were there Airgas employees, in the 2022 to
17 2023 time period, that were working primarily in building
18 4?

19 A No. There would be just people going in --
20 employees going in to set cylinders, load on a truck,
21 load up for a customer, and then out. There wasn't
22 anybody that was stationed at that building.

23 Q From 2005 up until the first of 2022, were there
24 specific Airgas employees that were stationed in building
25 4?

1 A No, ma'am.

2 Q What do you recall about the condition of building
3 4 in the 2005 time frame?

4 A Building 4 has always been the roughest building
5 on the building [sic]. Building 4 was built in the late
6 '30s. The concrete block part of that was built in the
7 late '30s, long before Brooks Welding Supply existed.
8 And that building is just -- it's always been the gas
9 house, and there's not a lot of difference in it.

10 Q In 2005 were some of the windows damaged or
11 broken?

12 A Honestly, back from even in the Brooks days I can
13 remember that. And I don't know exactly specific windows
14 or numbers of windows, or anything like that, but it was
15 the gas house where we just stored cylinders in there.
16 So, yeah, it was, it was rough. It was.

17 Q In looking at the back, looks like there's an L
18 shape at the back of building 4. Do you see that?

19 A Yes, ma'am.

20 Q In the little section, I can point to it with my
21 cursor, this section right here, smaller section, you see
22 that?

23 A Yes, ma'am.

24 Q Is there an opening to get into the building right
25 there?

1 A There is.

2 Q In 2005 was that an open entrance with no door, or
3 was there a door there?

4 A Once again, we're going back 20 years. At one
5 time there was a set of double doors, like double,
6 closing metal doors that were there. But I do not know
7 when those were removed. I don't know.

8 Q Moving a little earlier, to 2022 to 2023 time
9 period, was that closed during that time period or was
10 that an open section?

11 A It was open.

12 Q And do you recall -- I'm not going to limit it to
13 a certain time period because I don't know when the time
14 period might've been, but was there a point in time in
15 which the opening there was damaged?

16 A I, I don't know. I mean, that wasn't anything
17 that had to do with me. So I honestly don't know if it
18 was or not. I think when the forklifts would go in and
19 out is the reason doors were removed, to keep from
20 hitting the doors. But I don't know other than that.

21 Q Did you ever hear of someone hitting the building
22 in that section with, say, a forklift?

23 MR. ROBISON: Object to form.

24 A I'm sorry. I didn't hear what you said.

25 Q The section we're talking about on building 4,

1 were you ever told or were you ever made aware that that
2 section of door had been damaged by a vehicle or
3 equipment of any kind?

4 MR. ROBISON: Same objection. You can answer
5 if you can.

6 A I mean, I don't, I don't specifically know of a
7 time or that happening, but it has damage on it. So I
8 don't know. I'm assuming. I don't know.

9 Q Have you -- and you mentioned that it has damage.
10 Did you see that or were you told by someone that that
11 was the case?

12 A I seen it when I'd walk through it, you know.

13 Q You say walk through it. Was that while you
14 worked on the property, or was that at a different time?

15 A That was when I worked there.

16 Q Tell me what you recall about the condition of
17 that building, building 4, in the 2013 time period.

18 A So during the hailstorm -- that's a tough
19 building, so nothing had to be done in it, that I know
20 of. So it was basically in the same condition that it
21 was before the hailstorm. It's basically in the same
22 condition it's in now, as far as I know, unless
23 something's been done to it.

24 Q And then as of the early part of June 2022, again,
25 before getting into that last lease period, what do you

1 recall about the condition of that building at that time?

2 A It would be the same.

3 Q Was there a point in time where BWS Properties --
4 and again, this is the 2005 to 2023 time period, where
5 BWS paved certain parts of the outside of the property?

6 A There was paving done, but I do not know who paid
7 for it. I don't know --

8 Q How many times -- I'm sorry.

9 A I said I don't know who did that.

10 Q How many times do you recall in that time period
11 someone, whether BWS or Airgas, paving a portion of the
12 outside of the property?

13 A I truly only remember one time when I was there.
14 But like I said, I wasn't there all the time. So, it
15 could happen and I didn't see it.

16 Q And just to confirm, did Airgas pave part of the
17 property in 2015?

18 A I don't know the dates on that. Once again, I
19 don't have any idea of the dates. But yes, there was
20 some paving done, but I cannot tell you the dates of
21 that.

22 Q And are you aware -- again, not specific to time
23 frame, but are you aware of any quotes that Airgas has or
24 bills or statements or documents relating to any paving
25 that may have been done on the property?

1 A I have no idea.

2 Q For the buildings we've discussed 1, 2 and 3,
3 generally tell me what you recall about the condition of
4 each of those buildings from June 1, 2022 until May 1 of
5 2023, which is about one month before Airgas left the
6 property.

7 A You said buildings 1, 2 and 3, but you're meaning
8 1, 2 and 4?

9 Q Yes. I apologize. We've had some clarification
10 back and forth on that in the past. So yes, 1, 2 and 4.

11 A I mean, the conditions were an industrial welding
12 supply. I mean, it's -- I don't really know how to
13 describe it. It's just industrial type buildings that
14 are -- they served their purpose, you know. I don't
15 really know how to describe it. It just, you know, it
16 doesn't change much.

17 Q Was there any specific damage caused to buildings
18 1, 2 and 4 during that same time period?

19 A Not that I'm aware of.

20 Q Do you recall during that time period about the
21 condition of the pavement on the outside of the
22 buildings? So, the parking area or driving area that I'm
23 just referring to as the outside of the property.

24 A Sure.

25 Q What do you recall about the condition of that

1 portion of the property during that same time period,
2 2022 up until one month before Airgas left the property?

3 A I mean, it's, it's old pavement. It's, you know,
4 weathered, old pavement. I mean, it's just -- pavement
5 wears out. So, you know, it's not going to last forever.

6 Q And was it in that same condition that you just
7 described back in 2013 after the hailstorm?

8 A Well, yes. I mean, 2013 to 2023 is 10 years. So
9 it would've been a little less weathered 10 years earlier
10 than that than it would be now. But, yes.

11 Q Was there an Airgas employee that was responsible
12 for retaining and coordinating someone to clean the
13 inside of buildings 1, 2 and 4 during the June 1, 2022 to
14 June 1, 2023 time period?

15 A The store manager. That would be the store
16 manager's responsibility.

17 Q And who did -- remind me, who was the store
18 manager at that time?

19 A Corley Johnson. James Corley Johnson.

20 Q And who was retained by Mr. Johnson to clean the
21 inside of those buildings?

22 A I believe the name was Jani-King.

23 Q Is she an individual, or was she a company and she
24 used her name?

25 A I mean, I'm assuming that was a company.

1 Q How often did she come in to clean buildings 1, 2
2 and 4?

3 A I honestly don't know that. I would see her there
4 every now and then. Like I said, I wasn't there every
5 day of every week, so I don't know. Sometimes I would
6 see the cleaning person there, you know. But I don't
7 know what their schedule was.

8 Q When was the last time that she came to clean
9 buildings 1, 2 and 4 before Airgas vacated the property?

10 A It cut out. Did you say when was that?

11 Q When was the last time that she came and cleaned
12 1, 2 and 4 before vacating the property.

13 A I have no idea.

14 Q What instructions or guidelines were given to her
15 for cleaning, ensuring proper cleaning of buildings 1, 2
16 and 4?

17 A I have no idea. That would've been the store
18 manager's responsibility.

19 Q And this maybe was referenced earlier that it was
20 not within your scope of knowledge. So if that's the
21 case, please tell me. What was the budget given to her
22 for -- or what was the budget given to Airgas for
23 cleaning buildings 1, 2 and 4?

24 A That wasn't in my scope.

25 Q Was she the same individual or entity used for

1 cleaning from 2005 to 2022?

2 A I have no idea. I can't imagine it was, but I
3 have no idea.

4 Q Did Airgas have either an individual or a company
5 that they used to clean buildings 1, 2 and 4 throughout
6 2005 to 2022?

7 A They did, yes.

8 Q Was it the same company or different companies?

9 A I honestly do not know.

10 Q Was there an Airgas employee that was responsible
11 for, you know, retaining or coordinating someone to clean
12 the outside of buildings 1, 2 and 4 from June 1, 2022 to
13 June 1, 2023?

14 A I do not know the answer to that. I really don't.
15 You'd have to refer to the store manager. I don't know.

16 Q And I think -- I can rephrase that question.
17 Which Airgas employee was responsible for coordinating
18 the cleaning of the outside of the buildings 1, 2 and 4,
19 if that was to take place?

20 A That would be the store manager.

21 Q And again just for clarity purposes, who was
22 retained to clean the outside of buildings 1, 2 and 4, if
23 there was someone?

24 A I do not know.

25 Q Thank you. Was there anyone retained by Airgas in

1 the 2005 to 2022 time frame to clean the outsides of
2 buildings 1, 2 and 4?

3 A I do not know.

4 Q Which Airgas employee was responsible for
5 coordinating someone to maintain the grounds and
6 landscaping on the property from June 1, 2022?

7 A That would be the store manager.

8 Q And who was retained by Airgas to provide
9 landscaping services for the grounds on the property from
10 June 1, 2022 to June 1, 2023?

11 A I believe that was a company called Outdoor
12 Incorporated.

13 Q How often did they come to tend to the grounds at
14 the property?

15 A I mean, I always thought they did a good job,
16 because there's a lot of bushes across the front. I
17 would say they were there weekly, but I don't know for a
18 fact because I didn't have anything to do with that.

19 Q They came to tend to the grounds and landscaping
20 at the property before Airgas vacated the property?

21 THE REPORTER: You cut out the first of it.

22 MS. WOLINSKY: It may have something to do
23 with my computer in Atlanta. But yes, I'll repeat that
24 question.

25 Q When was the last time that they came to tend to

1 the grounds or landscaping at the property before Airgas
2 vacated the property?

3 A I do not know the answer to that.

4 Q From 2005 to early 2022, did Airgas have a company
5 or entity, individual, retained that would come to
6 maintain the grounds at the property?

7 A Yes.

8 Q Do you recall which companies were responsible for
9 doing so?

10 A I have no idea on that.

11 Q What parameters did Airgas give or guidelines did
12 Airgas give to the entity responsible for maintaining the
13 grounds during the 2022 to 2023 time period?

14 A I do not know.

15 Q And just for expediting a little bit, was
16 Mr. Johnson also responsible for coordinating someone to
17 perform maintenance tasks at the property from June 1,
18 2022 to June 1, 2023?

19 A Yes.

20 Q Did Airgas use a specific company during the June
21 1, 2022 to June 1, 2023 time frame to come and perform
22 maintenance work at the property?

23 A I don't know that they used one specific company,
24 because it depended on what needed to be done. If it was
25 air conditioning, they would be a different company than,

1 I guess, somebody to repair lights or something, you
2 know. But yes, they did have maintenance people coming
3 in.

4 Q And during that June 1, 2022 to May 1, 2023 time
5 period -- again, this is one month before Airgas vacated
6 the property, tell me what maintenance was done at the
7 property by Airgas.

8 A I don't know. In that time period I was there
9 less than I was at any other time because I'd already
10 moved my office to Charleston. So I was only in that
11 store once, maybe twice a week. So I honestly don't know
12 what maintenance was performed.

13 Q Was there a specific entity or individual that
14 Airgas used prior to 2022 to perform maintenance at the
15 property?

16 A I don't know of maintenance. I know the name of
17 the company that did some of the air conditioner work
18 there, worked on the HVAC systems there. But I don't
19 know as far as other maintenance the name of the
20 companies.

21 Q Tell me the -- you may've already mentioned it,
22 and I apologize. Who was the heating and air company
23 that was used?

24 A It was called Kenny Rogers Service Company. And
25 it's easy to remember because of Kenny Rogers.

1 asked me if Kevin would be interested in doing that or
2 give us an estimate. And so he was. And so I met him
3 over there, since I know him. And I met him over there
4 with Jenny. And he had the list, and we walked through
5 and looked at the list, you know, and he created an
6 estimate from that list.

7 Q And was that estimate provided to you via email or
8 was it a written list?

9 A It wasn't provided to me. It was sent to Peter.
10 So I never did see the estimate of it. I don't know -- I
11 really don't know how it came. I think it came email,
12 but I'm not positive.

13 Q And just to confirm, did you ever see a quote or
14 calculation for how much Kevin Cruz would charge or
15 require to make repairs?

16 A I didn't see it. And I think Peter had told me
17 what it was, Peter Van Slyke, but I honestly don't
18 remember dollar-wise. I mean, I could make a guess at
19 what I thought it was but, I don't -- I mean, if you want
20 me to.

21 Q Was Mr. Cruz going to be able to complete all of
22 the repairs on Ms. Nevans' list?

23 A Yes. As far as I know, yes.

24 Q Was he going to be able to complete all of the
25 repairs that Airgas was -- actually strike that. Strike

1 that.

2 You mentioned you had been provided a list, I
3 believe, of potential repairs to be made. Who provided
4 that to you?

5 A Peter did. Peter Van Slyke.

6 Q Starting with building 1, during your walk-through
7 with Mr. Cruz and Ms. Nevans, tell me what you observed
8 in that building as you walked through.

9 A I mean, I was really just there to watch -- or to
10 see what was on the list. I mean, I didn't really
11 observe anything out of the ordinary other than that,
12 other than, you know, an empty building that made me sad
13 after I'd been there for 40 years.

14 Q I'm sure. I'm sure. Well, what items were on,
15 that you recall, were on that list that you saw as you
16 walked through building 1?

17 A I mean, there was the -- of course, some drywall
18 repair, drop ceiling repairs. I'm not -- I remember
19 those specifically on the list, but I don't know exactly
20 what else was on there.

21 Q And then tell me what you observed in building 2
22 during that walk-through.

23 A I think building 2, if I'm not mistaken, was kind
24 of the ceiling in it also, but I don't remember anything
25 else on that, from that building. I don't remember

1 anything from that building, other than that.

2 Q I'm going to go ahead and show you -- I think this
3 may help as well, what we'll mark as [Exhibit 4](#). Did a
4 document pop up on your screen?

5 A It did.

6 (Exhibit 4 will be marked.)

7 Q And for the record, this is an email chain. It
8 starts at Airgas 273 and goes through 274. I'm going to
9 scroll down slowly. Please feel free to let me know if
10 you need to look at anything more closely. But it looks
11 like -- this is the first page of the email chain. Let
12 me know when you're ready for me to scroll onward.

13 A Go ahead. You can.

14 Yeah. I mean, I'm glad to see that. That's the
15 list. So yeah, that's fine. Yes.

16 Q Just to confirm, is this the list -- and I'll
17 scroll back up if you need to see the header. But is
18 this the list that was sent to you for the walk-through?

19 A If I remember correctly, I mean, that's exactly
20 what it says, but it was a handwritten list from
21 Ms. Nevans.

22 Q Looking at the top of this email, it shows
23 forwarded message. It has -- it's been sent to you,
24 tracy.harvey@airgas.com.

25 A Okay. Okay. So it was sent to me. I'm sorry. I

1 said that wrong then. I didn't remember if it was or
2 not.

3 Q But it also says it's from -- I may mispronounce
4 this, Katracho Mania?

5 A Yeah.

6 Q Who is that?

7 A I have no idea. It's the email address of -- KC
8 is Kevin Cruz, but I do not know who that is.

9 Q Okay.

10 A He's Honduran. So, there's no -- I don't, you
11 know, I don't know.

12 Q And in looking at this list -- and again, if you
13 need more time to do so, were there -- was there anything
14 on -- you recall the handwritten list, but it may've been
15 emailed. But was there anything else on the list that
16 you recall that isn't listed in here?

17 A Let me look at that.

18 Q Absolutely.

19 A (Reviewing document.) As far as I recall, that's
20 what the list was.

21 Q And during your walk-through of the property with
22 Mr. Cruz on Airgas's behalf, did you notice any other
23 potential damage or items that needed to be repaired that
24 are not included on this list?

25 A No.

1 Q Did Mr. Cruz ever make any of the repairs to the
2 property that are listed in that exhibit?

3 A Not that I know of.

4 Q I'm going to show you some photographs now. And
5 I'll admit, these will probably take the longest to go
6 through because there are quite a few, as you may already
7 know from looking at them before. So if at any point you
8 need to take a break during these -- I won't necessarily
9 make you go through all of them -- going back to the
10 request that we finish the question on the table, a
11 document this long doesn't count as one question. So,
12 you do not have to wait until the end of the documents.

13 We will go through what I will mark as [Exhibit 5](#).

14 (Exhibit 5 will be marked.)

15 Q There are quite a few. And I'm going to try and
16 rotate as best I can.

17 What parts of the property does this picture show?

18 A That's building 2. That's the operating repair
19 shop.

20 Q And was this how it appeared in the early 2023
21 time frame?

22 A Yes. Sometimes it would be less crowded than
23 that, just depending on the number of machines in there
24 to be repaired. But yes.

25 Q And just for expediting purposes, is this also in

1 building 2?

2 A That is the office in building 2, yes.

3 Q And again, is this how it would've generally been
4 in the early part of 2023?

5 A Yes.

6 Q And looking over to the left-hand side of the
7 photo, there's a couple of printers and then there's a
8 window behind them. Do you see that?

9 A Yes, ma'am.

10 Q During the early 2023 time period, was that window
11 broken at all?

12 A Oh, I don't know. I don't have any idea.

13 Q And then where is this on the property?

14 A That's actually building 4 -- I mean, I'm sorry,
15 building 3. That's the old garage. The green and white
16 building is the repair building, is the repair shop. The
17 other part is the old garage, building 3.

18 Q And just for my own fun, whose car is that? If
19 you know.

20 A That's Steve Benton, our repair guy's car. He's a
21 Mustang guy.

22 Q I approve. I like it a lot. Might as well have a
23 little fun.

24 And is this how specifically the pavement appeared
25 in the early part of 2023?

1 Q And do you see over here on the left-hand side of
2 the building, in front of those larger cylinders there
3 appears to be a window right there; is that correct?

4 A That is correct.

5 Q At one point was there an air unit in that window?

6 A There was an air conditioner unit in there at one
7 time, yes.

8 Q Do you know what happened to it?

9 A So whenever that happened -- and I don't know the
10 year that this happened or the time that it happened, it
11 was broken into, and whoever broke into it shoved the
12 window unit in through that to gain access to the
13 building.

14 Q Do you know if Airgas attempted to replace the
15 window or to fill that hole?

16 A I honestly don't know if that was Airgas when that
17 happened or if it was BOC when that happened. I truly
18 don't.

19 Q On the front side, which was technically, I guess,
20 the back side, do you see the brown, splotchy patches on
21 the outside paint?

22 A Uh-huh. Those are cobwebs.

23 Q Do you know if that was -- I'm sorry. Continue.

24 A So, what happened there, you see the lights that
25 are hanging down there? The lights are on. The lights

1 stayed on there 24/7 for some reason. And since we were
2 right next to the river, it constantly gained bugs, and
3 the bugs brought the spiders, and there you are.

4 Q Did Airgas periodically pressure-wash the outside
5 of that building?

6 A I don't know if they pressure-washed it. It was
7 pressure-washed when it was painted, when all the
8 buildings on the property were painted. But I mean, I
9 have seen people spray that off with a hose before, you
10 know.

11 Q When do you think the last time was you saw -- or
12 someone hosed off the outside of that building?

13 A I mean, I don't honestly know. It's been a long
14 time. I don't know.

15 Q And is this how the gas house would've generally
16 appeared in the early 2023 time frame?

17 A Yes, ma'am.

18 Q What are we looking at here?

19 A It's one of the offices in building 1, but I can't
20 determine -- I can't decide which one that is. I almost
21 think that picture is backwards maybe. I don't know.
22 But it's one of the offices in building 1.

23 Q This may help a little bit, unless there's an
24 objection. I can represent to you, off to the left, past
25 that fire extinguisher there is the door to the outside,

1 if that helps.

2 A Okay. Maybe that was Corley's office. Maybe that
3 was the store manager's office, is what it may look like.
4 No, that's not his office. His had a different type
5 ceiling in it. I mean, it's definitely one of the
6 offices there, but I'm not positive which one it is.

7 That's the conference room.

8 Q Which building is this in?

9 A It's in 1.

10 Q Do you see the back left portion of this photo,
11 the ceiling?

12 A Yes, ma'am.

13 Q Do you recall seeing the ceiling in this --
14 actually strike that.

15 Describe for me what you see there on the ceiling.

16 A I see a couple of ceiling tiles that are sagging.

17 Q When did that occur?

18 A It's been years, honestly. I don't know, I don't
19 know an exact time, but it's, it's been like that for a
20 long time.

21 Q Earlier we had started talking about the linoleum
22 or the VCT in this building. Is that the type of
23 flooring that's depicted here?

24 A I think it's the same flooring throughout the
25 whole building inside, in 1, I believe.

1 Q Did Airgas periodically reseal or wax or otherwise
2 treat the floor?

3 A I don't know that. I mean, that would be the
4 cleaning service that would do that, I would assume. I
5 don't know if they were required to do that or not.
6 That's out of my scope.

7 Q Was this always a conference room or was it used
8 as something else prior to 2023?

9 A No, it was a conference room.

10 Q What is this picture showing?

11 A That's the showroom, looking towards the front
12 counter.

13 Q Did Airgas install the decorative silver item on
14 the outside of the bar that's depicted here -- or the
15 counter?

16 A That's aluminum tread plate. Yes, we did.

17 Q I didn't know what to call that. I've referred to
18 it as the silver thing, essentially, from the beginning.
19 So, thank you. Aluminum tread plate. Do you know when
20 Airgas installed that?

21 A When we repainted the inside and repainted the
22 outside of the buildings when our owner, Peter McCausland
23 that used to own Airgas, was coming to visit us. And
24 that's when you spruce everything up, of course, when the
25 owner is coming. And that's when we installed that.

1 Year-wise, it was after '05. So I don't know if it was
2 '7, '8 -- I don't know when he visited.

3 Q When Airgas was vacating the property in 2023, did
4 they remove the aluminum tread plate?

5 A As far as I know, yes, because it's gone.

6 Q How would you go about removing aluminum tread
7 plate?

8 A Oh, it was just -- it actually was just put on
9 with double-sided tape.

10 Q And just to confirm, the linoleum and VCT flooring
11 is not in this room; is that correct?

12 A That's just painted concrete.

13 Q Is this that conference room again?

14 A Yes, ma'am.

15 Q And just to confirm, is this a different view of
16 the conference room?

17 A Yes.

18 That's a problem.

19 Q There we go. Is that right side up now?

20 A Yes.

21 Q I won't make you look at them upside down, I
22 promise, because I don't want to do that.

23 Where is this picture?

24 A So this is right inside from the showroom. This
25 is the offices. This is where -- basically you call it

1 inside sales. That's where the store manager would
2 sit -- I mean, not store manager, I'm sorry, the
3 assistant manager and all that would be in this area.
4 There was a couple of cubicles there.

5 Q And were the cubicles attached to the wall?

6 A What part of the cubicle?

7 Q This side wall where -- I apologize. Let me
8 rephrase that. The dividers between the cubicles that are
9 depicted here, it looks like there's two, one here in the
10 middle and then one at the very back. Are those part of
11 the wall or is that part of the cubicle that is affixed
12 to the wall?

13 A That's part of the wall.

14 Q The desk that's partially depicted in the lower
15 left-hand corner, was that a freestanding desk or was it
16 affixed or attached to the wall?

17 A It was attached to the wall.

18 Q And was that desk removed by Airgas when it was
19 vacating the property?

20 A Yes. That's what I was told, yes.

21 Q Did removing that desk, which was attached to the
22 wall, cause certain damage to the wall?

23 A I would think so. That's part of the repair, that
24 estimate from Kevin Cruz, and you can see damage to the
25 drywall.

1 Q And before we had talked about some wires that may
2 have been run at one point or another by another entity,
3 not Airgas. Are these wires that Airgas had someone run
4 for it?

5 A I can't specifically say it was Airgas that had
6 that. Those wires could've been there from BOC, they
7 could've been there from the Brooks days. I don't --
8 those look like telephone wires to me.

9 Q Were these wires removed by Airgas when they were
10 vacating the property?

11 A I don't believe so.

12 Q And just to hopefully expedite a little bit, is
13 this the showroom, just a different angle?

14 A Yes, ma'am.

15 Q When Airgas was vacating the property and before
16 it finally left, did it replace or repair any of the
17 lights in the ceiling that are currently out in this
18 picture?

19 A I don't know. And I don't know that those lights
20 are all on. There was several switches that controlled
21 the lights in the showroom. I don't know if all the
22 switches were on in that picture. I really don't know.

23 Q You see in the back where it looks like Airgas,
24 the name, is painted on the wall?

25 A Yes.

1 Q Was that painted over before Airgas vacated the
2 property?

3 A No. And it's actually not painted, it's a vinyl
4 sticker.

5 Q I'll just rephrase just to make sure. Was that
6 vinyl sticker removed before Airgas vacated the property?

7 A I don't think so.

8 Q Was there other signage, whether painted on or
9 otherwise, other type affixed to the wall, was it removed
10 from the showroom before Airgas vacated the property?

11 A As far as I know, the only thing in the showroom
12 now is that vinyl sticker that goes around the top of the
13 wall like that. All the fixtures and everything like
14 that was removed, yes.

15 Q And when you say "fixtures," are you talking about
16 the equipment and other stock in the shelving that's
17 depicted here?

18 A And the shelving. Fixtures or shelving, yes.

19 Q And again, is this a picture of the showroom from
20 a different angle?

21 A Yes, ma'am.

22 Q And do you see the orange poster-type item on the
23 left-hand --

24 A Yes.

25 Q -- side of that room?

1 A Yes, ma'am.

2 Q Is that -- was that removed before Airgas vacated
3 the property?

4 A I honestly can't tell you that. I don't know.

5 Q And where is this?

6 A That is the store manager's office.

7 Q And over here, it looked like there's a door
8 looking out into another space. Is that looking out into
9 the warehouse?

10 A Yes, ma'am.

11 Q And I apologize. I realize I neglected to ask
12 this question. The showroom pictures that we looked at,
13 the different angles, as well as the inside sales area,
14 is that how those generally appeared during the early
15 2023 time period?

16 A Yes, ma'am.

17 Q And the same question here. Is this how this
18 would've appeared in the early part of 2023?

19 A Yes, ma'am.

20 Q And where is this?

21 A So that is on the left side of building 1, where
22 we talked about earlier about the door that didn't work,
23 that's the door you're looking at there, to the left,
24 that doesn't work, and then the roll-up door also, a bay
25 door.

1 Q And can you describe for me how that bay door
2 appears in this picture?

3 A Looks like the bottom seal is -- the bottom
4 weather seal has come off of it and it looks like it has
5 a dent in the bottom panel, or in the panel that I can
6 see.

7 Q Do you know what caused that?

8 A I have no idea. I mean, it looks like it was
9 damaged, but I have no idea.

10 Q Whose motorcycle is this?

11 A That's one of our drivers. That was Micah, one of
12 our drivers. He rode a motorcycle when it was nice.

13 Q I like that motorcycle.

14 A Yeah.

15 Q I'm always going to have a little bit of fun.
16 Can't resist.

17 A He retired to Daytona Beach. So he's having a lot
18 of fun now.

19 Q He is. He is. I'm admittedly jealous.

20 I'm going to move to the next photo. And is this
21 the same view but reverse from the inside?

22 A Inside, yes, ma'am.

23 Q And again, this is the inside of the warehouse; is
24 that correct?

25 A That is correct.

1 room. The first door on the left goes into the inside
2 sales area, where those cubicles were.

3 Q And do you see the discoloration on the ceiling in
4 this picture?

5 A Yes, ma'am.

6 Q What caused that?

7 A I'm assuming a leak from the roof.

8 Q And is this how the hallway generally appeared in
9 early 2023?

10 A Yes, ma'am.

11 Q Where is this picture?

12 A That's the back of building 1 where the loading
13 docks are.

14 Q What equipment is parked outside of the first
15 door, bay door, in this picture?

16 A Yes.

17 Q What type of equipment is that?

18 A Oh. Forklifts.

19 Q About how many forklifts did Airgas use on the
20 property?

21 A I think we had three. I think there was three on
22 the property.

23 Q And did they remain outside or did they go in and
24 out of the building?

25 A So, those were propane powered, and most --

1 probably 90 percent of the time they were outside,
2 because that's what they loaded the trucks with, our
3 delivery trucks with. We had an electric forklift that
4 was inside the building.

5 Q During Airgas's tenure on the property, was it
6 aware of a forklift or other type of equipment, other
7 than what you had mentioned, hitting building 2 earlier,
8 either running into or hitting in any way building 1?

9 MR. ROBISON: Object to form. You can
10 answer.

11 A I mean, I'm not in a specific time. I mean, it's
12 an industrial situation. Things get bumped into. I
13 don't think that anything was hit, ever hit hard enough
14 to permanently damage something. You know, getting
15 nitpicky on this, to the left of the forklifts -- and
16 this is damage that I know of because I've been there for
17 40 years. So getting to the left of the forklifts,
18 between the bay door and the forklifts that you see in
19 this picture right here, the whole bottom of that wall
20 there is bent out at, you know, not a 90-degree angle but
21 probably a 70-degree angle, at the whole bottom of that
22 wall. That was there when I -- in 1985 it was like that.
23 That's something that happened years ago. That was --
24 you know, it's an industrial situation.

25 Q And right above where you were actually just

1 talking about, was there a small AC unit?

2 A There was, yeah.

3 Q Did Airgas remove that when it was vacating the
4 property?

5 A No. I think that air conditioner unit actually
6 quit years before that and it was taken out then. It was
7 in a small office that was there, that was on the inside
8 of that building.

9 Q Was it replaced or the space that was left open
10 ever filled in?

11 A I don't know. I can't tell what's in that picture
12 right there.

13 Q And is this a picture of the same area we just
14 looked at?

15 A Yeah. Same view, further back.

16 Q I believe that's the same picture.

17 A Yeah. Yeah.

18 Q We're now on BWS 607, just for point of reference.
19 Are we looking at building 2 on the left and then
20 building 3 on the right?

21 A Yes.

22 Q And is this how this area would've generally
23 appeared in the early part of 2023?

24 A Yes, ma'am.

25 Q And looks like Airgas has a truck parked over here

1 to the left. Is that truck -- was that truck usually
2 parked there --

3 A Yes.

4 Q -- in the 2022 to 2023 time period?

5 A That's the service truck for the welder service
6 department.

7 Q And again, is this a closer-up view of building 2?

8 A Yes. With the loading dock, yes.

9 Q And did the loading dock usually look like that,
10 or was this relating to something else?

11 A No, it normally looked like that. I mean, that
12 was a busy repair shop. There was a lot of welding
13 machines went in and out that.

14 Q This is another even closer view of building 2?

15 A Uh-huh.

16 Q And I don't think I asked this before. If I did,
17 apologies. But the equipment that was repaired in this
18 shop, was it Airgas equipment or would it be equipment
19 from other companies or individuals as well?

20 A It wouldn't be Airgas equipment. It would always
21 be companies or individuals.

22 Q What is this a picture of?

23 A That's inside of building 2.

24 Q Do you see the upper right-hand corner of this
25 photo?

1 A Yes.

2 Q Was there an area where certain insulation or a
3 hole had formed -- actually strike that.

4 Describe for me what you see up here in the upper
5 right-hand corner of this photo.

6 A It looks like insulation that has fallen from a
7 water leak.

8 Q When did that occur?

9 A I have no idea.

10 Q And is this another view of the inside of building
11 2?

12 A It is. Looking towards the office on the left and
13 the parts room on the right.

14 Q Did you say a parks room?

15 A Parts room. Where spare parts are stored, yes,
16 repaired for the welders.

17 Q Is this a clearer picture of the parts room?

18 A Yes.

19 Q The pictures that we just looked at for the inside
20 and outside of building 2, is that how it generally
21 would've appeared in the early part of 2023?

22 A When it was in use, yes.

23 Q I'm going to show you what we're going to mark as
24 [Exhibit 6](#).

25 Did some photographs pop up on your screen?

1 A Yes, ma'am.

2 (Exhibit 6 will be marked.)

3 Q This starts at Airgas 222. Sorry about that. We
4 just have to number them. And it goes through Airgas
5 660, just for the record. I promise you'll get to look
6 at them much more closely.

7 Because these were labeled Airgas, these were
8 produced by Airgas and are photos that they produced to
9 us, to BWS. Did you -- during any walk-through of the
10 property or while you were on the property in the 2022 to
11 2023 time period, did you take any photographs of the
12 property?

13 A No ma'am.

14 Q Did you take any video of the property?

15 A No, ma'am.

16 Q Do you know of Airgas employees that took pictures
17 of the property during that time period?

18 A I have no idea.

19 Q What does this picture show?

20 A That is what used to be Jason Lowe's office in
21 there, because it has built-in bookcases. And, I mean,
22 that's a missing ceiling tile.

23 Q Looks like there's some wires hanging down as
24 well?

25 A Yeah.

1 Q Do you know when this occurred?

2 A No. It had been years, but I do not know the
3 date, no.

4 Q Do you know what caused this?

5 A I really don't.

6 Q Do you know why he had a Goo Goo Car Wash thing
7 hanging down from the ceiling?

8 A Oh, I didn't realize that. I guess because it
9 smelled good when the air blew on it.

10 Q Peter is laughing because I've asked everybody
11 about it because, again, I'm just curious. Why not.

12 A Yeah.

13 Q It's been my favorite.

14 And then is this second picture the same picture
15 that we just looked at?

16 A Yes, ma'am.

17 Q Do you know where this is on the property?

18 A I don't. I wish it was a bigger picture, I could
19 tell you. It's so small, I don't.

20 Q Can you generally describe for me what you see in
21 this picture?

22 A Concrete that is degraded. I don't know why it
23 degraded, but definitely concrete that's degraded in that
24 corner. It looks like mold to me.

25 Q Who's in this picture?

1 A That's a good-looking guy right there.

2 Obviously this is -- this was after I had vacated
3 and moved to Charleston, but I was there to do something.
4 So, there was still a docking station there in that
5 office that used to be Jason's, and so we could use that
6 when we needed to hook up our laptops. So, that's the
7 same picture as you looked at before with the missing
8 ceiling tile, except for the good-looking guy.

9 Q And do you recall having this picture of you
10 taken?

11 A No, I don't, because I would've complained about
12 that. No, I do not. I was working. I'm proud that I
13 was doing something.

14 Q Well, surprise, you've made it into Airgas's
15 document production.

16 A Yes.

17 Q And then do you recall where this is on the
18 property?

19 A I think that's in the hallway of building 1.

20 Q Can you describe for me what you see in this
21 photo?

22 A I mean, it looks like a ceiling tile is just on
23 the wrong side of a wire, that just needs to be slid back
24 in place.

25 Q And when was that tile moved over?

1 A I have no idea.

2 Q Where is this on the property?

3 A That's in the back section, kind of between
4 building 1 and building 2, you know, just in the main
5 part of the parking lot in the back.

6 Q Can you describe for me what you're seeing on the
7 pavement in this picture?

8 A Kind of like before, the weather-checking from,
9 you know, old pavement, pavement degrading. I think as
10 pavement continues to degrade, it becomes more of what
11 you're seeing in the very center of that picture.

12 Q And it looks like there may be -- I'm using the
13 phrase you used -- have degraded down to a gravel
14 appearance; is that correct?

15 A Yes, ma'am.

16 Q When did that degrading become a level at which it
17 was -- actually strike that. When did the pavement begin
18 to look like that gravel texture or appearance we just
19 talked about?

20 A I do not know an exact date of that. I mean -- I
21 just don't. I don't pay that much attention to the
22 parking lot.

23 Q Did Airgas's vehicles or other vehicles that we
24 described before, the 18-wheelers or, I believe, the long
25 truck as they were described, did they drive over this

1 portion of the pavement depicted here?

2 A Yeah. Everybody could drive over that, not just
3 Airgas trucks, our delivery trucks. Customer could drive
4 over that if they were going back to the service
5 department back there. Everybody could.

6 Q And I believe there's a dumpster in the top left
7 portion of this photo; is that correct?

8 A Yes, ma'am.

9 Q Is this a dumpster that Airgas usually kept
10 on-site in the 2022 to 2023 time period, or was this
11 brought in for something else?

12 A That one was brought -- if I'm not mistaken, that
13 dumpster was brought in when we were beginning to move.
14 There --

15 Q Once Airgas --

16 A I'm sorry. Go ahead.

17 Q No. You continue. You continue.

18 A There was a regular dumpster that stayed there all
19 the time, and you can see that in other pictures, right
20 on the back dock of building 1.

21 Q And when Airgas was finishing vacating the
22 property, did it remove the dumpster that's depicted
23 here?

24 A I'm assuming that whoever we rented the dumpster
25 from removed it.

1 Q Do you know for sure if that entity or individual
2 came and removed that dumpster?

3 A No. But it would've been a rented dumpster. So,
4 it wasn't ours.

5 Q Looking at the next picture, what is this showing?

6 A Damaged asphalt going up to building 2.

7 Q And what would've caused the damage in this
8 section of the property?

9 A That was caused by forklifts driving on that.

10 Q And over to the right, the fencing that we see,
11 top right-hand corner, is that going to building 3?

12 A Yes, ma'am.

13 Q When did the pavement depicted here begin to look
14 as it does now, in this photo?

15 A I don't have an exact date of that, but I mean, it
16 started a long time ago. As things were brought in and
17 out of that building with a forklift, you know, welding
18 machines on pallets, et cetera, and stuff like that, it
19 just, you know, wore down.

20 Q And where is this photo?

21 A You're awful specific for just a wall and a
22 ceiling. It's in the offices in building 1, but I don't
23 know exactly where, which one.

24 Q And can you describe for me how the ceiling looks
25 in this photo?

1 A I do not. I don't know who's taking that picture.
2 I have no idea.

3 Q Do you know where this is on the property?

4 A That is in -- that's in building 1, yes. That's
5 one of the other offices in building 1.

6 Q And can you describe for me what you're seeing in
7 this photo with regards to the ceiling?

8 A It looks like a ceiling grid system that has
9 failed or -- in the roof. Ceiling grids have to be
10 supported from above. So it looks like that has failed
11 and the grid is coming down.

12 Q When did that occur?

13 A I don't have a year of that. I do not know. I
14 mean, it's been like that for many years.

15 Q When you say "many years," back in to 2005?

16 A I'm guessing, I'm guessing all that would've been
17 replaced after the hailstorm. So, sometime after that.

18 Q And you may have mentioned, but I just want to
19 confirm. Do you know whose office this was?

20 A Most the time that was David Millians.

21 Q The cords or the lines that are coming down from
22 the ceiling and go over to the bookshelf, was that
23 usually like that, or was that something that occurred --

24 A So, if I'm not mistaken, there used to be a
25 credenza behind that. And that was the -- I think the

1 telephone or computer thing, or whatever, and those wires
2 came down to that credenza that was back there. And it
3 looks like just whatever that's attached to has just been
4 set on that shelf there. Those are built-in bookcases in
5 that office. It just looks like they was set over there
6 when that was moved.

7 Q Did Airgas remove this chair and desk from the
8 property when it was vacating the property?

9 A I don't know. I don't know when that picture was
10 made. I don't have any idea.

11 Q Where is this on the property?

12 A So, that's on the back side of building 1. That's
13 where the pavement ended when they ran out of pavement.

14 Q And where is this photo?

15 A That is the ramp up to building 4, the gas.

16 Q Describe for me how the concrete ramp looks in
17 this picture.

18 A The concrete is broken, broken up.

19 Q And what caused that?

20 A Forklift traffic.

21 Q When did that damage occur?

22 A It occurred over years of use of that, with
23 forklifts going up that ramp.

24 Q And again, looks like in part of the -- on part of
25 the ramp, using again a word you'd used before, it's

1 degraded down to a ground-down or kind of a light
2 consistency?

3 A Concrete does the same thing as asphalt does.
4 It'll turn back into gravel essentially.

5 Q And when did it begin to look like gravel instead
6 of just the cracked concrete?

7 A I don't have any idea of the time frame of that.

8 Q Where is this picture?

9 A That's in building 4, inside the gas house.

10 Q And describe for me what you're seeing there.

11 A Broken out windows or broken glass that -- to be
12 truthfully honest with you, I don't ever remember that
13 not being broken out.

14 Q And where is this picture?

15 A That's the inside of the office of the gas house
16 where the air condition was pushed in when it was broken
17 into.

18 Q And we'd talked about that previously; is that
19 correct?

20 A Yes, ma'am.

21 Q Is this the same area but zoomed out?

22 A Yeah. Same thing.

23 Q Describe for me what you see or how the floor
24 appears in this photo?

25 A This whole room here hasn't been used in, I don't

1 have any idea how long it's been, but a long time, 20
2 years or more since that office has even been -- anybody
3 had been in it probably.

4 So the floor, I mean, there's a lot of debris on
5 the floor, but I don't know exactly how much damage is on
6 the tile, but that tile has never been replaced or done
7 anything to. Like I said, that building was built in the
8 '30s.

9 Q Did you see this during your walk-through with
10 Mr. Cruz?

11 A I don't think we went in that building at all. I
12 don't think we went in that room, in that building. I
13 don't think that was listed there. From the outside, I
14 think it was listed on there about maybe repairing the
15 block there. But I don't think anything was said about
16 the inside of that. I could be wrong. If you want to go
17 back to the repair quote, we can look.

18 Q Absolutely. And I'll just represent that that is
19 [Exhibit 4](#) again. Let me know if you need me to scroll
20 down.

21 A That would be in building 4, correct? Correct?
22 Is that building -- that would be building 4?

23 Q The gas house is building 4, yes.

24 A I don't see anything on that about building 4. So
25 that wasn't on the list that we were asked to look at.

1 Q And for my understanding, when he's saying
2 building 1 section, building 2 section, does it appear
3 that he is referring to different buildings or different
4 sections of only one building?

5 A I think that's different buildings because of the
6 way it's said there. I think that's different buildings.

7 Q And part of the reason I'll ask, I admit, is that
8 in building -- under the building 3 section, it lists VCT
9 floors. And I think that's only in -- my understanding
10 is that it's only in building 1.

11 A Oh. Well, may be. I'm not sure exactly how
12 that's -- I don't know how that's exactly written,
13 because I don't remember what the handwritten list, how
14 it was listed, if it was listed in buildings, by
15 buildings or not.

16 MS. WOLINSKY: And I'll just note, I don't
17 think we've seen a handwritten repair list. Peter, are
18 you aware of...

19 MR. ROBISON: I'm not aware of one that still
20 exists. When Mr. Harvey mentioned it I made a note to go
21 see if it exists somewhere. But I'll represent to you
22 that we have not been able to find it, if it still exists
23 in any form, and this is all that we have. If that
24 changes, we will supplement immediately and let you know.
25 But as I understand, it may've been a handwritten note or

1 something physical that may not have survived.

2 MS. WOLINSKY: I wanted to double-check.

3 BY MS. WOLINSKY:

4 Q All right. Looking at the next photo, I believe
5 it is duplicative of an earlier one, as you are appearing
6 once again.

7 A Yes.

8 Q I believe this one is also duplicative that we
9 talked about before.

10 A Yes. Yes.

11 Q I think the latter half of these may be -- I don't
12 believe we looked at this one, which is, just for the
13 record's purposes -- sorry, I know this is blinding --
14 655.

15 A So that's just the left side of the picture before
16 that. It's just a little wider view. So if you go back
17 up to the picture right before that, that's just to the
18 left side of that picture. Same door is there. That's
19 the same roll-up door. When you go to the next picture
20 down, it's just more of the same damage up there.

21 Q And just to confirm, that's building 2?

22 A It is.

23 Q And this picture, similar damage outside?

24 A Yeah. That's a different view of the same damage.

25 Q I believe we looked at this photo before.

1 A Yeah. I don't exactly know where that's at.

2 Q And where is this on the property?

3 A So, that's the same part we were looking at
4 before, where the bulk tanks were and the trucks backed
5 in to fill them. That's behind building 4, between
6 building 4 and Manufacturers Road.

7 Q Is this that same area?

8 A Yeah. Same thing, yes.

9 Q And is this a different view of the ramp leading
10 up into building 4?

11 A Yes, ma'am.

12 MS. WOLINSKY: I think I'm at a good stopping
13 point for lunch, if that works for everyone.

14 MR. ROBISON: That's fine.

15 (Lunch recess from 12:21 to 12:57.)

16 BY MS. WOLINSKY:

17 Q I want to turn briefly to [Exhibit 6](#) that we were
18 looking at before we headed out to lunch. Did a picture
19 pop back up on your screen?

20 A Yes, ma'am.

21 Q I believe before we went to lunch we were talking
22 about this being outside of building 4; is that correct?

23 A Yes, ma'am.

24 Q And you described the pavement as broken up
25 concrete and some gravel; is that correct?

1 A Yes, ma'am.

2 Q With regard to that specific ramp we see in this
3 picture leading up to building 4, would that have raised
4 a safety concern during the 2022 to 2023 time period?

5 A I can't speak to what the Airgas standard would be
6 on that. To me, it would, in my personal opinion, but I
7 don't know about to the Airgas standard what that would
8 be.

9 Q Can you tell me why you would consider that, you
10 said you personally, as a safety concern?

11 A Well, I mean, you know, if you're trying to drive
12 up that with a forklift, it would be very rough to drive
13 on. That would be my only concern on that, would be
14 possibly of dropping your load that you had on the forks.

15 MS. WOLINSKY: And, Peter, you're muted.

16 MR. ROBISON: Thank you. Sorry. I had
17 objections to the scope of those last two questions. I
18 apologize.

19 BY MS. WOLINSKY:

20 Q I'll show you what we're going to mark as Exhibit
21 7.

22 ([Exhibit 7](#) will be marked.)

23 Q Did a new set of pictures pop up for you?

24 A Yes, ma'am.

25 Q And this one starts at BWS 89. And what that just

1 means is that these are documents -- or photographs that
2 BWS has produced.

3 A Okay.

4 Q So this starts at BWS 89. And I'm just going to
5 represent, for the record, that they go to 123. I'm
6 hoping these are going to be a little more visible. At
7 least on me, as I know some may not, and I'm going to try
8 to read those off as we go.

9 So the first one is BWS 89. Do you know where
10 that's located on the property?

11 A That's in the mens bathroom in building 1.

12 Q During the 2022 to 2023 frame, was there anything
13 about that urinal that wasn't working as it normally
14 would?

15 A Not that I'm aware of. It worked every day.

16 Q When you did the work-through with Mr. Cruz, was
17 that one of the items that was going to be repaired?

18 A I don't, I don't think that was in there. There
19 was some miscellaneous plumbing, I think, but I don't
20 remember that specifically being listed in that.

21 Q And we can look back at that document if you'd
22 like.

23 A That's fine.

24 Q And again, this is going back to [Exhibit 4](#).

25 A I see one commode and sink to be replaced, and

1 random plumbing work to be done, but I don't see anything
2 that says anything about the urinal.

3 Q Looking at photograph number 90, do you know where
4 that was in the building?

5 A That should be in the same bathroom. It looks
6 like the vanity that was in the mens bathroom.

7 Q During the -- I'm sorry. You can continue.

8 A In building 1, I'm sorry.

9 Q Did you look under that sink when you were doing
10 the walk-through with Mr. Cruz?

11 A No. I had no reason to, no.

12 Q At any point during the 2022 to 2023 time period,
13 was there a bucket under that sink?

14 A I have no idea. I would never look under that
15 sink. I mean, I wouldn't have any reason to look under
16 that vanity.

17 Q Did that sink, during the 2022 to 2023 time
18 period, ever leak?

19 A Not that I know of. I mean, it was used every
20 day. Not that I know of.

21 Q Do you know where that -- what that pipe -- where
22 that pipe is on the property?

23 A I'm assuming that's in the same vanity, I'm
24 assuming. I mean, that's just a picture under a sink.

25 Q Did you look at that pipe specifically when doing

1 the walk-through with Mr. Cruz?

2 A No, ma'am.

3 Q Is that one of the items included in the plumbing
4 work to be done in his list?

5 A You know, I don't know. It's not broken down that
6 far.

7 Q Does it appear to have any corrosion or damage or
8 alteration to a normal pipe?

9 A It appears to be corroded, but it also appears to
10 be a, you know, 50-year-old piece of pipe too, or older.

11 Q Where is this on the property?

12 A That is in the very back bathroom of building 1,
13 the one that we talked about that never worked. That is
14 actually -- it actually has a shower in it from the '50s.

15 Q If it wasn't being used by Airgas as a bathroom,
16 what was it being used for?

17 A Looks like just for storage.

18 Q Were those items removed when Airgas vacated the
19 property?

20 A I don't know. I don't know that we looked in
21 there.

22 Q And that was number 92.

23 A Okay.

24 Q Number 93, where is this located on the property?

25 A That's the same bathroom the shower's in, the very

1 back bathroom of that building, that hasn't worked in
2 years and years and years.

3 Q When you say didn't work, can you elaborate for me
4 a little bit?

5 A What happened in that is, that's in the very back
6 of the building, in the corner. And, you know, earlier I
7 told you about the wall that was folded out on the
8 outside of the building, that was damaged and folded out.
9 That was there, damaged like that in '85 when I was
10 there -- or was before '85. So, that's the wall, the
11 outside wall of that same room that we're looking at
12 right there. So, when wintertime came, the wind would
13 just blow right in there and the pipes would freeze. So
14 that's why the water was cut off, and that was never used
15 again.

16 Q Do you know if Airgas had turned the water back
17 on, would it have worked as a normal bathroom?

18 A I don't know that. I'm not a plumber. But being
19 turned off for so long, I can't imagine it would work.

20 Q Did anyone at Airgas ever attempt to turn the
21 water back on to see if it would work?

22 A Not that I'm aware of.

23 Q Looking at number 94 -- and please let me know if
24 I need to zoom in. I know some of these are kind of
25 small. Where is this on the property?

1 A That one is in building 4. That's in the gas
2 house.

3 Q And was this bathroom working at the time that
4 Airgas vacated the property?

5 A No. Absolutely not. That had been abandoned,
6 basically, with that other office over there years and
7 years before that?

8 Q And when you say years and years --

9 A Go ahead.

10 Q No, you go ahead. I think you were answering my
11 questions anyways.

12 A As far as what year, I don't know. But, you know,
13 there's no water -- there hasn't been water going to the
14 gas house in years. So no, that wouldn't have worked
15 over there.

16 Q Why wasn't there gas -- excuse me, water going to
17 the gas house?

18 A I don't know. It was turned off years ago for
19 some reason. I don't know the reason why.

20 Q Did Airgas ever attempt to turn the water back on
21 to see if it would work?

22 A I do not know that.

23 Q And this is number 95. Where is this on the
24 property?

25 A That's right outside of that bathroom we were just

1 looking at. That's all still in the same part of the gas
2 house.

3 Q The items pictured here, looks like a storage
4 locker and then items on and around it, did that belong
5 to Airgas?

6 A You know, I actually had that question yesterday.
7 I don't know that. That was -- that's equipment that was
8 there in Brooks Welding Supply days. So, BOC bought
9 Brooks Welding Supply. Did they buy all that? Airgas
10 bought BOC. Does that belong to Airgas? I don't have
11 any idea.

12 Q Where is this on the property?

13 A That's also in building 4. That's the hot water
14 heater that would provide hot water for the sink in that
15 bathroom that we looked at.

16 Q I think, as you mentioned before, the water wasn't
17 flowing to this building. Did the water heater work if
18 water was flowing to that building?

19 A At one time I suppose it did, but, you know, like
20 I said, that was many years ago.

21 Q And again, when you say "many years ago," do you
22 recall if it was before or after the 2012 hailstorm that
23 it would've worked?

24 A It was definitely before that.

25 Q Where is this located on the property, number 97?

1 stuff, where mice or rats would like to go behind there.

2 Q And did you see evidence of cockroach activity
3 when you were walking through the property?

4 A I don't remember seeing that.

5 Q After Airgas had removed all of its property from
6 the property, did they have someone or did they clean
7 building 1?

8 A I have no idea. I do not know that.

9 Q Looking at BWS 109, where is this on the property?

10 A So that's the office in building 2, in the thing,
11 once everything is out of there.

12 Q Did Airgas -- strike that. Is the desk and phone
13 and chair Airgas's property?

14 A I have no idea. That's what I asked earlier. I
15 don't know if that would be Airgas property or not.

16 Q Do you know if Airgas removed this from the
17 property?

18 A I don't know that.

19 Q Are these the creamer cups we discussed a few
20 moments ago?

21 A Yes, ma'am.

22 Q Did Airgas keep a supply of creamer cups for
23 employees to enjoy coffee?

24 A Yeah. Coffee for employees and customers both,
25 yes.

1 Q I believe we've seen a photo similar to this
2 before. This is BWS 111. Is this in the gas house?

3 A That's in the gas house, yes.

4 Q And what appears to be the ground?

5 A It looks like broken glass.

6 Q Did you see that when you were walking through
7 with Mr. Cruz?

8 A Like I said, I don't remember if we even went into
9 the gas house or not. I don't believe there was anything
10 on that list about the gas house. So I don't know if we
11 did or not.

12 Q And I'm not sure that I asked this but I'll just
13 go ahead and clarify. Which buildings did you walk
14 through with Mr. Cruz?

15 A I know we were in 1 and I know we were in 2, the
16 repair shop and the main building. I don't -- we walked
17 to the outside of building 3, because of looking at the
18 hole where the air conditioner was, and looked at the
19 signs up there that were talked about being painted over.
20 But I don't know that -- I honestly don't remember if we
21 went in that building or not.

22 Q And when you just mentioned pointing at the signs
23 that were going to be painted over, which signs are you
24 talking about?

25 A The only one that I knew of they wanted painted

1 over was the -- there was, I think -- I think there was
2 two on the building, on the outside of building 1. There
3 was an old Lincoln electric sign and a Miller electric
4 sign. That, and then the sign on the pole out front that
5 had Airgas on it.

6 Q And just to confirm, when you were walking through
7 with Mr. Cruz on the property, did you see those signs?

8 A Sure.

9 Q And had they been painted over at that time?

10 A Oh, no.

11 Q Did Mr. Cruz -- has Airgas gone back and painted
12 over those signs?

13 A Not that I know of. But I haven't been by that
14 location in a long time, so I don't know.

15 Q And again just to confirm, has Airgas removed
16 those signs from the property?

17 A Yeah, I don't know that. I don't.

18 Q BWS 112. We've look at one similar to this
19 before. Is this the gas house?

20 A That is the office of the gas house, yes.

21 Q We may've seen a different angle of this room, but
22 just to double-check, where is this on the property?

23 A That's in building 4. That's in the old gas
24 house.

25 Q And this is BWS 113. What are the white pipes in

1 items that you witnessed during the walk-through that
2 stood out to you during the walk-through that were not
3 depicted in those pictures?

4 A Not that I can think of, no, ma'am.

5 Q Other than the topics that we confirmed at the
6 start of this deposition and which we have now gone
7 through, are there any other topics that you are prepared
8 to testify to today on Airgas's behalf?

9 A No, ma'am.

10 MS. WOLINSKY: If we can go off record for
11 about 10 minutes, I think I can expedite and/or confirm
12 where I am at. I may be done.

13 MR. ROBISON: Okay.

14 (Recess 1:37 to 1:46.)

15 BY MS. WOLINSKY:

16 Q I shouldn't have too much more for you.
17 Continuing talking about your walk-through with Mr. Cruz
18 and then some time period after that. Between May 1,
19 2023 and the present, has Airgas made any repairs to the
20 property?

21 A Not that I know of.

22 Q Other than having Mr. Cruz walk through the
23 property and the preparation of the quote, has Airgas
24 made any attempts to repair the property?

25 A Not that I'm aware of.

1 REPORTER'S CERTIFICATE

2 STATE OF TENNESSEE:

3 COUNTY OF HAMILTON:

4 I, Sheila D. Wilson, Licensed Court Reporter
5 #268 and Notary Public, in and for the State of
6 Tennessee, do hereby certify that the deposition of TRACY
7 HARVEY was reported by me, and that the foregoing 129
8 pages of the transcript is a true and accurate record to
9 the best of my knowledge, skills, and ability.

10 I further certify that I am not related to
11 nor an employee of counsel or any of the parties to the
12 action, nor am I in any way financially interested in the
13 outcome of this case.

14 I further certify that I am duly licensed by
15 the Tennessee Board of Court Reporting, as evidenced by
16 the LCR number and expiration date following my name
17 below.

18 In witness whereof, I have hereunto set my
19 hand this 27th day of May 2025.

20 

21 Sheila D. Wilson, LCR #268
22 Expiration date: 6/30/2026.
23 Notary Public Commission
24 Expires: 1/17/2027.
25